

**IN THE
COMMONWEALTH OF VIRGINIA
REAL ESTATE BOARD**

Re: Ricardo A. Jimenez
Falls Church, VA 22043-2811

File Number 2003-00923
License Number 0225054244

CONSENT ORDER

Respondent Ricardo A. Jimenez ("Jimenez") recognizes and acknowledges being subject to and bound by the Regulations of the Real Estate Board ("Board"), as well as by all other applicable Virginia laws.

Jimenez knowingly and voluntarily waives any proceedings for this matter under the Administrative Process Act, §§ 2.2-4019, 2.2-4020, and 2.2-4021 of the 1950 Code of Virginia, as amended.

Board's 1999 Regulations provide:

18 VAC 135-20-200. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, and to suspend or revoke any license issued under the provisions of Title 54.1, Chapter 21 of the Code of Virginia, and the regulations of the board, where the licensee has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 21 of the Code of Virginia, Title 6.1, Chapter 1.3 of the Code of Virginia or any regulation of the board.

The Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

By signing this Consent Order, Jimenez acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings. Jimenez consents to the following term(s):


| | | |
|----------|---------------------------------|-------------------|
| Count 1: | 18 VAC 135-20-320.3 | \$500.00 |
| Count 2: | Virginia Code § 54.1-2132(A)(4) | \$250.00 |
| Count 3: | 18 VAC 135-20-310.2 | \$250.00 |
| Count 4: | 18 VAC 135-20-260.9 | \$250.00 |
| | | ----- |
| TOTAL: | | \$1,250.00 |

Any monetary penalties, costs, and/or sanctions are to be paid/performed within thirty days of the effective date of this consent order unless otherwise specifically noted above. Jimenez acknowledges any monetary penalty and/or costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Jimenez will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in § 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Jimenez acknowledges that failure to pay any monetary penalty or costs and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Jimenez's license until such time as there is compliance with all terms of this Order. Jimenez understands the right to have this automatic suspension considered in an informal conference pursuant to the Administrative Process Act §§ 2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§ 2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:



Ricardo A. Jimenez

4 Mar 05
Date

Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this 4th day of MARCH,
2005.



Notary Public

My Commission Expires: 7-31-2005

SO ORDERED:

Entered this 19th day of MAY, 2005.

Real Estate Board

BY: 
Louise Fontaine Ware, Secretary

EOO

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Real Estate Board
DATE: July 29, 2003; June 14, 2004, November 10, 2004

FILE NUMBER: 2003-00923
RESPONDENT: Ricardo A. Jimenez
LICENSE NUMBER: 0225054244
EXPIRATION: 12/31/2005

SUBMITTED BY: Morgan T. Moore
APPROVED BY: Linda J. Boswell

COMMENTS:

Companion file- 2003-00924 Martha L. Tabares, Principal Broker

Ricardo A. Jimenez ("Jimenez") was at all times material to this matter a licensed real estate salesman in Virginia (0225054244).

BACKGROUND:

On September 23, 2002, the Compliance and Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Janet F. Hewitt ("Hewitt") regarding a real estate sales transaction where Hewitt, as a real estate licensee with Weichert Realty, was representing the Seller in a transaction as the listing agent in the sale of 14726 Grobie Pond Lane, Centreville, Virginia, 22020. (Exh. C-1)

On or about August 14, 2002, Ricardo A. Jimenez ("Jimenez"), as a real estate licensee sales person with GFH Realty, Inc. and representing the Purchasers, Aldo and Maria Mendieta ("Mendieta"), negotiated a purchase contract for the Grobie Pond Lane property. The Seller made a counter-offer requesting the Purchaser increase the escrow deposit from \$2,000.00 as presented in the original purchase offer, to \$5,000.00. Mendieta accepted the counter-offer on August 14, 2002, and tendered an additional check in the amount of \$3,000.00 to GFH Realty, Inc. The contract was ratified on August 15, 2002. (Exh. C-2, page 4) On or about August 26, 2002, Jimenez faxed a copy of the additional check for \$3,000.00 to Hewitt. (Exh. C-2, page 10) The \$3,000.00 check was never deposited. (Exh. R-1)

On or about September 17, 2002, at settlement for the Grobie Pond property, the HUD-1

settlement statement only listed \$2,000.00 as the deposit money having been paid by the purchaser. (Exh C-3) Hewitt alleges Jimenez and GFH Realty, Inc. have failed to disclose material information concerning the deposit funds that was critical to the transaction.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

1. Violation of Board Regulation (Effective January 1, 1999)

18 VAC 135-20-320 Record keeping and escrow funds.

- (3) Failing, within a reasonable time, to account for or remit any monies coming into a licensee's possession which belong to others.

FACTS:

On or about August 14, 2002, Jimenez received the additional escrow funds from Mendieta in the form of a check for \$3,000.00. (Exh. C-2, page 10) Jimenez sent a photocopy of the check by facsimile transmission to Hewitt as proof of receipt; however, failed to turn over the check to his broker to be placed in the firm's escrow account. On March 6, 2003, Jimenez told Morgan T. Moore, the Board's Agent, that he later found the check after settlement and tore it up. Jimenez did not believe there was any harm committed by not depositing the additional escrow money because the client had sufficient funds to settle on the transaction. (Exh. I-1)

2. Violation of Code of Virginia

§ 54.1-2132(A) Licensees engaged by a buyer shall:

4. Exercise ordinary care.

FACTS:

The Seller made a counter-offer requesting the Purchaser increase the escrow deposit from \$2,000.00 as presented in the original purchase offer, to \$5,000.00. Mendieta accepted the counter-offer on August 14, 2002, and tendered an additional check in the amount of \$3,000.00. The second page of the purchase offer was amended, initialed by the parties, and then was ratified on August 15, 2002. (Exh. C-2, page 4) According to Jimenez, he put the amended page and the \$3,000.00 check in his file and forgot about them. (Exh. R-2) A copy of the \$3,000.00 check was faxed to the seller's agent on or about August 26, 2002. (Exh. C-2, page 10) Jimenez failed to exercise ordinary care to see that the contract showing the change in the escrow deposit amount, and the additional escrow check, were presented to the broker, either on August 15, 2002 or on August 26, 2002.

3. Violation of Code of Virginia (Effective January 1, 1999)

18 VAC 135-20-310. Delivery of instruments.

Actions constituting improper delivery of instruments include:

2. Failing to provide in a timely manner to all principals to the transaction written notice of any material changes to the transaction

FACTS:

On or about August 14, 2002, Jimenez received from Mendieta a check for \$3,000.00 representing an additional escrow deposit as terms requested by the seller and accepted by the buyer. Paragraph 5 of the contract, which was ratified on August 15, 2002, states that the purchaser has made a deposit with GFH Realty, Inc. The contract further states that the "deposit *will* be placed in an escrow account after date of ratification to conform with the laws and regulations of the appropriate jurisdiction..." (Exh. C-2, page 4) The Board's regulations require the \$3,000.00 check be deposited into GFH Realty, Inc.'s escrow account by the end of the fifth business banking day after contract ratification, or by August 22, 2002. Jimenez and his broker agree that the check was never deposited. (Exhs. R-1, R-2) On August 26, 2002, Jimenez faxed a copy of the check to the seller's agent. (Exh. C-2, page 10) Jimenez did not notify the seller's agent that the additional \$3,000.00 in escrow funds were not deposited as required by the terms of the contract.

4. Violation of Board Regulation (Effective January 1, 1999)

18 VAC 135-20-260. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

- (9) Engaging in improper, fraudulent or dishonest conduct.

FACTS:

On or about August 14, 2002, Jimenez received from Mendieta a check payable to GFH Realty, Inc. in the amount of \$3,000.00 representing additional escrow deposit funds as negotiated between the Buyer and the Seller for property known as 14726 Grobie Pond Lane, Centreville, Virginia. On March 6, 2003, Jimenez told the board's agent that after the transaction had settled, he found the check and tore it up. (Exh. R-3) Jimenez faxed a copy of the \$3,000.00 check to the seller's agent on or about August 26, 2002, without disclosing to the seller that the funds had not been deposited into the firm's escrow account. (Exh. C-2, page 10). It was the seller who requested the increase in the earnest money deposit. (Exh. C-1)